

# **EXHIBIT A**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

BASF AGRO B.V., ARNHEM (NL),  
WÄDENSWIL BRANCH, and  
BAYER S.A.S.,

Plaintiffs,

v.

MAKHTESHIM AGAN OF NORTH AMERICA,  
INC., and CONTROL SOLUTIONS, INC.,

Defendants.

Case No. 1:10-cv-276-WO-WWD

**JOINT MOTION TO AMEND SCHEDULING ORDER**

Pursuant to Federal Rule of Civil Procedure 16, plaintiffs BASF Agro B.V., Arnhem (NL), Wädenswil Branch ("BASF") and Bayer S.A.S. ("Bayer") (collectively, "Plaintiffs") and defendants Makhteshim Agan of North America, Inc., and Control Solutions, Inc. ("Defendants") (together with Plaintiffs, the "Parties") hereby move this Court for a revised scheduling and case management order, reflecting the removal of the January 19, 2011 preliminary injunction hearing date from the Court's calendar.

As grounds for this motion, the Parties state that they previously requested a January 19, 2011 preliminary injunction hearing based on Plaintiffs' understanding that Defendants planned to enter the U.S. marketplace on or around February 2011. As Plaintiffs noted in their October 18, 2010 Notice Regarding Preliminary Injunction Hearing Date (D.I. 43) and during the teleconference with the Court on the same date, Plaintiffs believe that recent discovery from Defendants indicates that the issues to be decided at the preliminary injunction hearing to have been held on January 19, 2011 may not be ripe for resolution by that date, and that there may be no need for preliminary relief before a trial on the merits in July 2011. Plaintiffs noted

during the teleconference that they reserve the right to seek preliminary relief in advance of the July 2011 trial date if their understanding of the facts changes based on further discovery. The Court removed the January 19, 2011 hearing date from its calendar and requested that Plaintiffs notify the Court if facts evolve such that Plaintiffs subsequently intend to seek preliminary relief. The Parties have worked to agree upon a schedule reflecting the fact that deadlines intended to prepare for a January 19, 2011 hearing are no longer necessary in the absence of a hearing on that date. The Parties have included a proposed amended schedule reflecting this development.

WHEREFORE, for the foregoing reasons, the Parties respectfully request that the Court enter the enclosed Amended Scheduling Order.

Respectfully submitted:

**WOMBLE CARLYLE SANDRIDGE & RICE,  
PLLC**

DATED: October 22, 2010

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**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the **JOINT MOTION TO AMEND SCHEDULING ORDER AND PROPOSED ORDER** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following CM/ECF participants: James L. Gale, [jim.gale@smithmoorelaw.com](mailto:jim.gale@smithmoorelaw.com), Marta E. Gross, [mgross@goodwinprocter.com](mailto:mgross@goodwinprocter.com), Joseph B. Crystal, [jcrystal@goodwinprocter.com](mailto:jcrystal@goodwinprocter.com), Michael Beck, [mbeck@goodwinprocter.com](mailto:mbeck@goodwinprocter.com) and April E. Abele, [aabele@goodwinprocter.com](mailto:aabele@goodwinprocter.com).

DATED: October 22, 2010.

/s/ Pressly M. Millen

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**EXHIBIT A**

**BASE, v. MANA – Proposed Amended Scheduling Order**

Event	Proposed Date for Completion
Parties to Make Best Efforts to Substantially Complete Document Production For Preliminary Injunction Issues	September 1, 2010
Fact depositions begin (the parties agree in good faith to work to make documents available for particular witnesses such that depositions can begin on July 26)	September 13, 2010
Exchange List of Claim Terms Proposed For Construction	September 30, 2010
Last day to join additional parties	September 30, 2010
Meet and Confer re Claim Construction Issues	November 1, 2010
Exchange Claim Construction Chart Identifying Agreed Upon Terms, Terms Requiring Construction and Evidentiary Bases for Constructions	November 15, 2010
Last day to amend pleadings	December 3, 2010
Opening briefs on claim terms and positions, simultaneous filings	December 6, 2010
Opposition briefs on claim terms and positions, simultaneous filings	December 20, 2010
Substantial completion of document production, responses to discovery requests up-to-date [except for updated discovery regarding Currently Intended Process to be provided by MANA under Consent Judgment and Order]	January 14, 2011
Close of Fact Discovery	March 14, 2011
	March 25, 2011
First Round of Expert Reports (BOP) *	
Responsive Expert Reports	April 15, 2011



Event	Plaintiff's Deadline
Close of Expert Discovery	May 13, 2011
Last date to file Dispositive Motions	May 20, 2011
Responses to Dispositive Motions	June 3, 2011
Final Pre-Trial Conference	At Court's Convenience
Commencement of Trial	July 5, 2011
* Plaintiffs' reports to also address any secondary considerations of nonobviousness, if alleged	

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**[PROPOSED] ORDER**

THIS MATTER came before the Court upon the Parties' joint motion pursuant to Rule 16 to amend the schedule in this matter. Being fully apprised in the premises, the Court finds that good cause supports the motion and it is **HEREBY GRANTED**. Unless otherwise ordered, the case schedule will proceed as follows:

Event	Proposed Date for Handling
Parties to Make Best Efforts to Substantially Complete Document Production For Preliminary Injunction Issues	September 1, 2010
Fact depositions begin (the parties agree in good faith to work to make documents available for particular witnesses such that depositions can begin on July 26)	September 13, 2010
Exchange List of Claim Terms Proposed For Construction	September 30, 2010
Last day to join additional parties	September 30, 2010
Meet and Confer re Claim Construction Issues	November 1, 2010

Event	Expected Reaction to Outcome
Exchange Claim Construction Chart Identifying Agreed Upon Terms, Terms Requiring Construction and Evidentiary Bases for Constructions	November 15, 2010
Last day to amend pleadings	December 3, 2010
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First Round of Expert Reports (BOP) *	
Responsive Expert Reports	April 15, 2011
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Responses to Dispositive Motions	June 3, 2011
Final Pre-Trial Conference	At Court's Convenience
Commencement of Trial	July 5, 2011
* Plaintiffs' reports to also address any secondary considerations of nonobviousness, if alleged	

SO ORDERED this the \_\_\_\_ day of \_\_\_\_\_, 2010.

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